

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Ortiz Analyst: Roger Lackey Bill Number: SB 887

Related Bills: None Telephone: 845-3627 Introduced Date: 02-25-99

Attorney: Doug Bramhall Sponsor: _____

SUBJECT: FTB Provide Information To The Department Of Social Services Regarding Group Home Providers

SUMMARY

This bill would provide that upon request from the Director of Social Services, the Franchise Tax Board (FTB) would furnish information regarding group home providers to assist the Department of Social Services (DSS) in the identification of fraud by group home providers.

This analysis will not address the bill's other changes regarding group home providers, as they do not impact the FTB.

EFFECTIVE DATE

This bill would be effective January 1, 2000.

SPECIFIC FINDINGS

Federal and state law requires state agencies to use strict requirements and guidelines in the use of personal information. The Information Practices Act of 1977 (Civil Code Section 1798) and the California Public Records Act (Gov. Code beginning with Sec. 6250) provide measures to assure fair treatment of individuals who are the subjects of state agency records.

These acts place specific requirements on state agencies in the collection, use, maintenance and dissemination of information relating to individuals. With exceptions, individuals may review, obtain copies, request amendments and corrections, and dispute information pertaining to them in state records.

Civil remedies and penalties are provided for violations that adversely affect individuals who are the subjects of state agency records.

The Revenue and Taxation Code (R&TC) provides for the confidentiality of tax returns and return information. All information on an individual personal income tax return is confidential, as well as the majority of information on corporate returns. The disclosure of confidential information to unauthorized entities is prohibited by law and is a misdemeanor criminal offense. The R&TC allows the department to share information with several state agencies for tax purposes, such as the Employee Development Department and the Board of Equalization. Certain exceptions also allow the department to share information for non-tax purposes. The DSS may access tax returns or information under two different laws, both regarding verification of the income of recipients of public aid. The R&TC also allows the department to charge any state agency for the reasonable cost of its services when disclosing information.

Board Position:

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_____ N	_____ OUA	_____ X PENDING

Department Director

Date

Gerald Goldberg

4/6/1999

In addition, **existing law** provides that the FTB may permit the Director of Social Services to inspect income tax returns of applicants, recipients of aid, or responsible relatives. However, existing law provides stringent guidelines that limit the Director of Social Services access to only the current or previous year information, and that that information may only be used to determine or verify if the applicant, or recipient of aid is eligible or entitled to such aid. Similar **state law** also exists for information concerning earned income.

This bill would provide that upon request from the Director of Social Services, the FTB would furnish information regarding group home providers to assist the DSS in the identification of fraud by group home providers.

Policy Considerations

Historically the FTB has expressed concern over legislative expansion of the disclosure of tax return information provisions of the R&TC. This bill would provide that the DDS would perform annual fiscal audits of all group home programs. If the DSS is to conduct an annual fiscal audit, DSS could amend its own statute to make it a condition of licensure or license renewal that applicants provide tax returns to DSS upon request. As a result, expanding existing R&TC disclosure provisions to include group homes would not be necessary. However, if the author wants to retain the tax return disclosure provision in the R&TC, it should be narrowed to mirror existing provisions allowing the FTB to disclose tax return information to DSS.

Implementation Considerations

Implementation of this bill would not significantly impact the department's programs and operations.

FISCAL IMPACT

Departmental Costs

Since the department could request reimbursement for its services, this bill would not significantly impact the department's costs.

Tax Revenue Estimate

This bill would not impact the state's income tax revenue.

BOARD POSITION

Pending.